

In the Indiana Supreme Court

CASE NUMBER:

ORDER AMENDING RULES OF CRIMINAL PROCEDURE

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Rules 5 and 10 of the *Indiana Rules of Criminal Procedure* are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

INDIANA RULES OF CRIMINAL PROCEDURE

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Rule 5. Recording machines: transcripts

Every trial judge exercising criminal jurisdiction of this state shall arrange and provide for the electronic recording or stenographic reporting with computer-aided transcription capability of any and all oral evidence and testimony given in all cases and hearings, including both questions and answers, all rulings of the judge in respect to the admission and rejection of evidence and objections thereto, and any other oral matters occurring during the hearing in any proceeding. The recording device or the computer-aided transcription equipment shall be selected and approved by the court and may be placed under the supervision and operation of the official court reporter or such other person as may be designated by the court. The court may, in its discretion, eliminate shorthand or stenographic reporting of any recorded matter. When computer-aided transcription equipment is used to record oral matters in felony cases, a printed transcript shall be produced and maintained as a court record for fifty-five years. If a transcription

of the recorded matters has not been prepared, certified and filed in the criminal proceeding, the electronic recording of all oral matters, together with a log denoting the individuals recorded and meter location of crucial events, or floppy disk and stenographic paper notes, shall be maintained as a ~~confidential~~ court record for ten years in all misdemeanors or fifty-five years in all felony cases.

The judge of the court in which the oral matters were recorded may direct the court reporter or any other responsible, competent person, in his discretion, to make a transcription of recorded oral matters and certify the accuracy of the transcription. Upon certification, the transcription of recorded oral matters shall have the same effect as if made from shorthand or stenographic notes.

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Rule 10. Plea of Guilty: Record to be Made

Whenever a plea of guilty to a felony or misdemeanor charge is accepted from any defendant who is sentenced upon said plea, the judge shall cause the entire proceeding in connection with such plea and sentencing, including questions, answers, statements made by the defendant and his attorney, if any, the prosecuting attorney and the judge to be recorded by an electronic recording device. The court may in its discretion also require the entire proceeding be recorded by the court reporter in shorthand or by stenographic notation.

If a transcription of the recorded matters has not been prepared, certified and filed in the criminal proceeding, the electronic recording of all oral matters, together with a log denoting the individuals recorded and the meter location of crucial events, shall be maintained as a ~~confidential~~ court record for ten years in all misdemeanors or fifty-five years in all felony cases.

Whenever the record of the proceeding is transcribed it shall be prepared in a form similar to that in general use as a transcript of evidence in a trial. When so transcribed, the same shall be submitted to the judge who shall certify that it is a true and complete transcript of such proceedings and shall order the same filed as a part of the record and cause an order book entry of the filing thereof to be made by the clerk.

In any proceeding questioning the validity of such plea of guilty or judgment rendered thereon, such transcription shall be taken and considered as the record of the proceedings transcribed therein and upon appeal the original may be incorporated without copying as a part of the record in such appeal over the certificate of the clerk.

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These amendments shall take effect January 1, 2007.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the circuit court are directed to send a copy of this order to all the judges, including any city, town, and small claims court judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this _____ day of July, 2006.

Randall T. Shepard
Chief Justice of Indiana

All Justices concur.